

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION

Docket No.: 2019-182-E

IN RE: South Carolina Energy Freedom Act (H.3659) Proceeding Initiated Pursuant to S.C. Code Ann. Section 58-40-20(C): Generic Docket to (1) Investigate and Determine the Costs and Benefits of the Current Net Energy Metering Program and (2) Establish a Methodology for Calculating the Value of the Energy Produced by Customer-Generators

**PETITION TO INTERVENE
ON BEHALF OF
ALDER ENERGY SYSTEMS, LLC**

(OUT OF TIME)

Alder Energy Systems, LLC, pursuant to S.C. CODE ANN. REGS. § 103-825, requests that the Public Service Commission of South Carolina (the “Commission”) permit it to intervene in the instant proceeding out of time and states the following.

INTRODUCTION

1. Duke Energy and various intervenors recently published their intent to request the Commission to approve a settlement relative to net energy metering for distributed solar in South Carolina. The parties deserve commendation for their effort; however—on information and belief—the anticipated settlement does not resolve all issues required by the Energy Freedom Act. Alder Energy requests to intervene in the instant action to address issues left open by the anticipated settlement, namely: how S.C. CODE ANN. § 58-40-20 impacts net metering for South Carolina’s commercial and industrial customers. Alder seeks intervention to advance the same policy in Dominion Energy territory. Alder’s intervention is thus to serve the public interest of commercial and industrial access to solar; it is not for the purpose of, nor will it cause, delay or prejudice. On these grounds and others, Alder respectfully requests the Commission enter an order permitting it to intervene here, and in all other related proceedings (as requested by independent petitions).

BACKGROUND

A. Posture

2. This proceeding was established on May 28, 2019, pursuant to S.C. CODE ANN. § 58-40-20(C), for the purpose of studying and establishing the value of customer-generated solar in South Carolina. Dominion Energy South Carolina (“DESC”), Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) are parties. The proceeding is incident to and runs concurrently with at least three other dockets, described more fully below.

3. Order 2020-570, dated August 26, 2020, establishes a procedural schedule requiring intervention by September 17, 2020. The order indicates new dockets will be opened to establish the utilities’ related ‘Solar Choice Metering Tariff’ under S.C. CODE ANN. § 58-40-20(F) (“Solar Choice Tariff”). DESC’s Solar Choice Tariff proceeding was opened on September 17, 2020 at docket 2020-229-E. An additional order of the Commission set a procedural schedule for that proceeding and requires a hearing on February 23, 2020. (Order 2020-622.)

4. It appears DEC and DEP’s Solar Choice Tariff will be adjudicated in dockets 2019-169-E and 2019-170-E, which were previously opened to establish the utilities’ net energy metering (“NEM”) tariff under S.C. CODE ANN. § 58-40-20(B). Additional orders of the Commission established a procedural schedule for these dockets and set a hearing for January 20, 2021. (Orders 2020-640, 2020-621.)

5. On September 21, 2020—less than three weeks from the day of this filing—Duke Energy and intervenors informed the Commission they resolved matters germane to the Solar Choice Tariff by agreement. *See e.g.* ‘Letter Regarding Stakeholder Agreement and Press Release,’ September 21, 2020, Doc. ID. 294192 and 294193 (collectively, “Proposed Settlement Terms” or “PST []” in citations).¹ The importance of this highly-publicized event is not understated. It is likely

¹ These documents were filed in dockets 2019-169-E and 2019-170-E.

to establish critical NEM policy in the state and move South Carolina beyond the limitations (perceived or otherwise) of the Distributed Energy Resources Program Act (“Act 236”).

6. The Proposed Settlement Terms are limited to residential NEM. (PST 2) (“The Solar Choice Metering tariff will apply to all interested **residential** customers applying on or after January 1, 2022.”) (emphasis added); (PST 5) (describing the tariff’s bill credit as applicable to “small customers”). The Proposed Settlement Terms vaguely address a non-residential “offering,” but the terms are unclear. (PST 3.) That section discusses a “Solar Choice Metering *rider*,” but the remainder of the terms—expressly limited to “residential customers”—apply to a “Solar Choice Metering *tariff*.” (*Id.*) There is no suggestion that the inherent difference is semantics.

7. The Proposed Settlement Terms developed from various stakeholder meetings and two workshops that occurred in March and April this year. Alder Energy was not a participant in those sessions and learned they took place only after publication of the Proposed Settlement Terms.

B. Proposed Intervenor

8. Proposed intervenor, Alder Energy, has developed, designed and installed solar photovoltaic systems from its Charleston, South Carolina headquarters for over a decade. The company has completed over five hundred distribution-scale solar projects in the southeastern United States and mid-Atlantic, ranging in capacity size from 2kW to 8MW. These projects would not have been built without NEM policies.

9. Alder Energy is a member of the South Carolina Solar Council, the South Carolina Solar Business Alliance, Solar Energy Industries Association, and the Coalition for Community Solar Access. The company has maintained an active delegate in these organizations since 2011, 2012, 2016 and 2018. It also participated in stakeholder meetings leading to the passage of Act 236 and the Energy Freedom Act (“Act 62”). That is to say, Alder has maintained an active place in South Carolina solar policy and wishes to intervene here to continue its work.

ARGUMENT

❖ THE COMMISSION SHOULD ALLOW ALDER ENERGY'S INTERVENTION IN THIS PROCEEDING BECAUSE IT IS IN THE PUBLIC INTEREST; WILL NOT DELAY THE PROCEEDING; AND WILL NOT PREJUDICE ANOTHER PARTY.

10. The Commission has a long standing history of permitting intervention out of time in electric dockets. (*See e.g.* Orders 2019-88, 2018-608, 2014-643, 2013-755, 2013-690, 2013-507, 2013-732, 2005-725.) The Commission's discretion in granting intervention considers: (1) the public interest, (2) potential delay and (3) prejudice, among other factors. *See e.g. id.* These factors are balanced against the Commission's policy "encouraging maximum public participation in issues before the Commission . . . [,]" even in circumstances where the petition is raised out of time. (Order 2005-725, Docket 2005-270-G, Dec. 16, 2005.)

11. (1) *Public interest.* South Carolina's commercial and industrial ("C&I") electric customers enjoy a legally-protected right to access solar energy. *See* S.C. CODE ANN. §§ 58-41-05 and 58-41-40 (Act 62 intended to "support access to solar energy . . . for *all* South Carolinians" and directing the Commission to consider "direct investments *by customers* for their own energy needs and renewable goals.") (emphasis added). Alder Energy's participation in this proceeding is in the public interest because it ensures the state's C&I customers can effectively implement their right to access distributed solar through NEM policies. No other intervenor represents this important interest for both C&I customers.² Alder's market position also gives it an independent and substantial interest in the outcome of this proceeding. (*See infra* ¶¶ 8-9.)

12. (2) *Potential delay.* Alder's participation is not intended to and not expected to delay the proceeding, but merely to support this important public interest. Moreover, the Proposed

² Nucor Steel-South Carolina was permitted intervention in this case by Order 2020-655, dated October 1, 2020. Alder is unaware of Nucor's position in this proceeding.

Settlement Terms provide that DEC and DEP will continue to engage with stakeholders, such as Alder, through November 2, 2020. (PST 2, 3.)

13. (3) *Potential prejudice.* Alder's participation in this proceeding will not prejudice the existing parties for at least two reasons. Direct testimony was filed less than one week from this petition and the hearing is set far enough in advance to permit the parties time to respond to Alder. Second—if Alder's read of the Proposed Settlement Terms is correct—the company's position would be outside the reach of the terms it contemplates. This, after all, is the crux of Alder's concern and reason for intervening—to ensure C&I access to solar.

14. The Commission should excuse Alder's late intervention on grounds the company was not aware of these proceedings and was not a participant in the stakeholder sessions, despite its known market position. Alder did not learn of the Proposed Settlement Terms, and its lack of clarity and efficacy for C&I customers, until it was published by the parties on September 21, 2020.

15. If intervention is granted, Alder will ask the Commission to consider how S.C. CODE ANN. § 58-40-20 impacts the efficacy and legality of: (1) the utilities' parameters for solar system size and (2) demand charges and grid access fees within NEM tariffs/riders, among other issues.

16. On these and other grounds, Alder requests the Commission permit it to intervene. The Commission will not otherwise enjoy minimum, much less "maximum," public participation on the important issue of NEM in South Carolina. (*See* Order 2005-725.)

17. Pursuant to S.C. CODE ANN. REGS. § 103-804(T) Alder is represented by the following counsel in the instant proceeding:

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Alder Energy conferred upon its counsel authority to accept service of all papers and filings for purposes of the instant proceeding.

WHEREFORE Alder Energy respectfully requests the Commission enter an order:

A. permitting it to intervene as a party of record and participate fully in the instant proceeding, or in the alternative, at least to present rebuttal testimony, and

B. permitting it to intervene in the dockets opened for the purpose of establishing the utilities' Solar Choice Tariffs.

Respectfully submitted,

October 11, 2020

Greenville, South Carolina

TPGL 10647746v5 17619.00102

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY on October 11, 2020 the undersigned filed the foregoing petition with PSC's DMS and further served a copy upon the recipients on the attached service list by electronic mail.

By: /s/ R. Taylor Speer
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